IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.91 OF 2005

ALONG WITH

CRIMINAL APPLICATION NOS.92 TO 95 ALL OF 2005

ALONG WITH

CRIMINAL APPLICATION NO.466 OF 2005

The State of Maharashtra ...Applicant

Versus

Kashinath Pandurang Jadhav ...Respondent

.....

Mr.A.S.Gadkari, A.P.P. for Applicant.

Mr.Rajendra Shirodkar for Respondent.

ALONG WITH

CRIMINAL APPLICATION NO.5262 OF 2004

Kashinath P.Jadhav ...Applicant

Versus

The State of Maharashtra ...Respondent

.....

Mr.Rajendra Shirodkar for Applicant.

Mr.A.S.Gadkari, A.P.P. for Respondent.

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CORAM: A.M.KHANWILKAR, J.

MARCH 15, 2005.

P.C.

1. Heard Counsel for the parties.

2. This order will dispose of all the seven Applications pending in this Court pertaining to the present accused.

3. The accused filed Bail Application before this Court being Criminal Application No.5262 of 2004 in respect of offence originally registered with Malad Police Station being C.R.No.163 of 2004, later on transferred to Economic Offences Wing, C.I.D., Unit No.3, Mumbai and registered as C.R.No.27 of 2004.

4. On perusing the record, I am in agreement with the opinion reached by the lower Court while rejecting the prayer for bail of the Accused. The lower Court has adverted to the materials on record to indicate the complicity of the accused in the commission of the crime. In that sense, no fault can be found with the conclusion reached by the lower Court in rejecting Bail Application preferred

by the accused in respect of offence registered at Malad Police Station, later on transferred to Economic Offences Wing, C.I.D., Unit No.3, Mumbai. (Besides, it has come on record that there are already eight offences/crimes registered against the accused in different Police Stations at Mumbai, pertaining to cheating and forgery, for which, the accused was being tried in connection with offence registered at Malad Police Station. That, by itself, would also be a ground to disentitle the accused for being released on bail.

5. During the course of arguments in the Bail Application preferred by the accused, learned A.P.P. contended that while on bail in connection with offence registered against the accused at Dadar Police Station being C.R.No.241 of 2002, the accused indulged in similar offences, for which, separate offences have been registered at M.R.A.Marg Police Station being C.R.No.119 of 2003, at Worli Police Station being C.R.No.107 of 2003, at Sion Police Station being C.R.No.76 of 2004, at Pantnagar Police Station being C.R.Nos.95 of 2004 and 108 of 2004 respectively. It is, therefore,

submitted that bail granted in favour of the accused in connection with the other cases ought to be cancelled. The learned A.P.P. therefore, advised the State that the State ought to file Application for cancellation of bail in respect of such offences, as a consequence of which advise, companion six Applications have been filed before this Court for cancelling bail granted in favour of the accused in connection with the aforesaid offences.

6. Counsel for the accused, however, submits that the ground invoked in the Application for cancellation of bail by the State against the accused that he indulged in similar offences while on bail, can, at best, be available in respect of offences registered at Dadar Police Station being C.R.No.241 of 2002, M.R.A. Marg Police Station being C.R.No.119 of 2003, Worli Police Station being C.R.No.107 of 2003 and Sion Police Station being C.R.No.76 of 2004 respectively. He submits that the accused is in custody since 25th March 2004, and subsequently registered C.Rs. against the accused, cannot be reckoned for the purpose of

cancelling bail granted to the accused in the earlier C.Rs., on the ground that while on bail, the accused indulged in similar offences.

7. The arguments seems to be attractive, but on closer scrutiny of the same, I have no hesitation in taking the view that bail granted to the accused in all the earlier offences will have to be cancelled, not only on the ground that while on bail, the accused indulged in similar offences, which are cognizable and non-bailable, and in fact, of the same kind, but also, because while granting bail to the accused in relation to offences registered with Pantnagar Police Station being C.R.No.95 of 2004 and C.R.No.108 of 2004, the fact that there are antecedents against the accused, has not been taken into account by the lower Court.

8. Counsel for the accused submits that as that ground is not pressed in the Applications for cancellation of bail filed by the State, the same cannot be the basis to set-aside the orders of bail operating in favour of the accused in connection with offences registered with Pantnagar Police

Station being C.R.No.95 of 2004 and C.R.No.108 of 2004. However, I see no substance in this submission.

9. It is always open for the Superior Court to set-aside the order of bail wrongly granted by the subordinate Court. If the fact that the accused are involved in similar offences and have committed repeated offences while on bail was brought to the notice of the subordinate Court, which was called upon to consider the Bail Application filed by the accused in respect of offences registered with Pantnagar Police Station, there is little room for doubt that the lower Court would have rejected the Bail Application of the accused. On the other hand, if it had proceeded to grant bail to the accused inspite of that objection, the order can be said to be nothing but perverse.

10. In the circumstances, it is not possible for this Court to overlook the fact that the accused has indulged in similar offences repeatedly and because of the antecedents, he would not be

entitled for bail even in respect of offences registered at Pantnagar Police Station. On this reasoning, even the bail granted to the accused in relation to offence registered at Pantnagar Police Station, will have to be cancelled.

11. Accordingly, for the reasons mentioned hereinbefore, the Application preferred by the accused being Criminal Application No.5262 of 2004 for bail in connection with offence registered at Malad Police Station, is rejected.

12. All the six Applications filed by the prosecution being Criminal Application No.466 of 2005 in respect of C.R.No.241 of 2002 registered with Dadar Police Station, Criminal Application No.93 of 2005 in relation to C.R.No.119 of 2003 registered with M.R.A. Marg Police Station, Criminal Application No.95 of 2005 in relation to C.R.No.107 of 2003 registered with Worli Police Station, Criminal Application No.91 of 2005 in relation to C.R.No.76 of 2004 registered with Sion Police Station, Criminal Application No.94 of 2005 in relation to C.R.No.95 of 2004 registered with

Pantnagar Police Station and Criminal Application No.92 of 2005 in relation to C.R.No.108 of 2004 registered with Pantnagar Police Station are allowed and the bail orders granted in favour of the accused in the respective cases by the lower Court are set-aside. Bail bonds of the accused to stand cancelled in view of this order.

13. As prayer for bail of the present accused has been rejected, it is appropriate that the trials pending against the accused, are expedited. Ordered accordingly.

14. It will be open to the prosecution to apply for assignment of all the criminal cases pending against the accused before different Courts to one Magistrate, to be tried one after the other on expeditious basis.

15. If such application is filed, the Chief Metropolitan magistrate may pass appropriate orders, keeping in view that the offences in question are allegedly committed in the year 2000 onwards.

16. All the above numbered Applications are disposed of accordingly.

A.M.KHANWILKAR, J.